

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

JDKayann Darby

Petitioner

v.

FDC Philadelphia David Ortiz

Respondent

(name of warden or authorized person having custody of petitioner)

15 4403Case No. DNYN 514CR000148-001
(Supplied by Clerk of Court)RECEIVED
AUG - 7 2015

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Kayann Darby
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: FDC Philadelphia
(b) Address: P.O. Box 562
Philadelphia, PA 19106
(c) Your identification number: 21445-052
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: James M. Hanley Federal Building,
100 S. Clinton Street, Syracuse, NY 13261-6100
(b) Docket number of criminal case: DNYN 514CR000148-001
(c) Date of sentencing: 4-24-2015
☐ Being held on an immigration charge
☒ Other (explain): Immigration Detainer

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)☐ Pretrial detention☒ Immigration detention☒ Detainer☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)☐ Disciplinary proceedings☒ Other (explain): Immigration Detainer

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: INS - Customs Enforcement - Philadelphia

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Detainer lodged for Immigration(d) Date of the decision or action: 7-22-15**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not appeal: Detainer just lodged

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: Detainer lodged 7-22-15
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____
- _____
- _____
- _____
- _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____

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- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: I hereby request relief for my INS Detainer that was lodged.
I am 5 months pregnant and need to participate in M.I.N.T. program for
incarcerated pregnant mothers. This detainer was lodged without my knowledge
and request that I have a hearing immediately.

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

First notification of detainer lodged was 7-22-2015 (see attached)

I am 5 months pregnant

To attend the H.I.N.T. program, I cannot have any detainers lodged.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Request an Immigration Hearing immediately to lift the detainer so I may attend the H.I.N.T. program for incarcerated pregnant mothers. This is of the essence. I am 5 months pregnant.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

8/5/2015

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 8/4/2015

R. DARBY

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Department of Justice

Federal Bureau of Prisons

INMATE SKILLS DEVELOPMENT PLAN

Current Program Review: 07-22-2015



Name:
Register Number:
Security/Custody:
Projected Release:

DARBY, KAYANN
21445-052
LOW/IN
06-21-2017 / GCT REL

Institution:

Telephone:

PHILADELPHIA FDC
P.O. BOX 572
PHILADELPHIA, PA 19106
(215) 521-4000

Next Review Date: 01-17-2016
Next Custody Review Date: 01-29-2016
Age/DOB/Sex: 38 / 09-20-1976 / F
CIM Status: N

Driver's License/State: /
FBI Number: 565891HB0
DCDC Number:
INS Number: 200414102
PDID Number:
Other IDs:

Release Residence: Stanford Ross, Boyfriend
235-18 148 ROAD
ROSEDALE, NY 11422
Telephone: (917) 972-0878

Release Employer: To Be Secured Upon Release
[Address]
[POC]
[Phone]
Contact
Telephone:

Primary Emergency Contact: Stanford Ross, Boyfriend
235-18 148 Road
Rosedale, NY 11422
Telephone: (917) 972-0878

Secondary Emergency
Contact: [POC]
[Address]
Telephone:

Mentor Information:

Controlling Sentence Information:

Offense(s)/Violator Offenses	Sentence	Sentencing Procedure	Supervision Term
	30 MONTHS	3559 PLRA SENTENCE	3 YEARS

Controlling Sentence Began	Time Served/Jail Credit/Inoperative Time	Days GCT/EGT/SGT	Days FSGT/WSGT/DGCT	Parole Status
04-24-2015	3 MONTHS 6 DAYS / 7 / 0	117 / 0 / 0	0 / 0 / 0	Hearing Date: NOT ENTERED Hearing Type: Last USPC Action:

Detainers

Org	Authority	Charge #1	Charge #2	Charge #3
INS	CUSTOMS ENFORCEMENT	DEPORTABLE ALIEN	CONTACT ICE AGENT: FADINA # 215-783-0794	

Special Parole Term: NOT ENTERED

Pending Charges: None known

Cim Status: N

Cim Reconciled: N/A

Financial Responsibility	Imposed	Balance	Case No./Court of Jurisdiction	Assgn/Schedule Payment
ASSESSMENT USDC	\$100.00	\$100.00	DNYN514CR000148-001/NDNY	FINANC RESP-PARTICIPATES \$25.00 QUARTERLY
RESTITUTION FEDERAL VICTIM USDC	\$93836.00	\$93836.00	DNYN514CR000148-001/NDNY	

Financial Plan
Active: Y
Financial Plan Date: 07-20-2015

Comm Dep-6 mos: \$815.65
Commissary
Balance: \$2.00

Payments

Commensurate: N / Per J&C inmate is to pay her restitution at a rate of 25% of her monthly income.